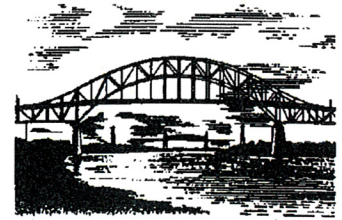


Terri A. Guarino  
Health Agent

# TOWN OF BOURNE BOARD OF HEALTH

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## REMOTE MEETING MINUTES April 28, 2021

Members in attendance: Stanley Andrews, Chairman; Donald Uitti; Kelly Mastria; and Barbara Princiotta

Support staff in attendance: Terri Guarino, Health Agent; Kaitlyn Shea, Health Inspector; and Stephanie Fitch, Health Inspector

### Remote Meeting was called to order at 05:00pm

*Michael Rausch with the Bourne Enterprise acknowledged he was recording the meeting.*

1. **Attendance.** Mr. Don Uitti - present, Ms. Barbara Princiotta - present, Mrs. Kelly Mastria - present, and Mr. Stanley Andrews - present.
2. **COVID-19 and Phased Re-opening Plans – Terri Guarino, Health Agent to provide information and updates.**  
On April 27<sup>th</sup> there was a press release by Governor Baker announcing continued reopening plans, including the start of Phase IV Step 2 beginning on May 10<sup>th</sup> and relaxing the outdoor face covering requirement on April 30<sup>th</sup>, except for situations where it is not possible to maintain social distance and when required by business-specific guidelines. Larger events will need to submit COVID-19 safety plans to the local health department or the State Department of Public Health for approval. Bourne currently had less than a dozen active COVID-19 cases. Miss Guarino stated that the Community Health Center of Cape Cod was holding a vaccine clinic on April 29<sup>th</sup> at the Barnstable County Fairgrounds as well. There were no questions or public comment.
3. **The Board of Health to review and outline next steps and the schedule for the Town of Bourne Landfill site assignment—CONTINUED discussion and update.** Mr. Andrews shared that last week the Selectmen authorized the hiring of an attorney for the hearing officer for the site assignment. Secondly, the submission of the sight suitability report to DEP was considered incomplete due to a difference of shading between plans so ISWM is resubmitting the documents and they expect a two week delay in the schedule. The Town will likely start the site assignment in the middle of July 2021. Mr. Andrews will present a list of requirements for a hearing officer to Miss Guarino next week. Miss Guarino will distribute the list amongst the Board members and will ask for feedback before putting out the RFQ. There were no questions or public comment.
4. **Mics Main Scoop –Owner, Michaela Michienzi- Discussion and possible vote on issuing Food Establishment Permit to Mic's Main Scoop located at 100 Main St. Buzzards Bay, MA.** Mr. Andrews recused himself for this item on the agenda. Miss Michaela Michienzi submitted a letter to the Board prior to the meeting. A preliminary walk-through had been completed by Ms. Fitch and a final inspection will be performed prior to opening day. Miss Michienzi stated that they plan to do a soft opening on May 5<sup>th</sup> and an announced opening on May 9<sup>th</sup>. **Motion to issue a food establishment permit to Miss Michienzi for Mic's Main Scoop was made by Ms. Princiotta, and seconded by Mr. Uitti. Roll call vote to approve: Ms. Princiotta - Yes, Mr. Uitti - Yes, Mrs. Mastria - Yes. All in favor and the motion passed.**

5. **388 County Road horse stable – Owner, Jennifer Chaves requesting the installation of two additional stalls and three horses to the existing stable permitted at 388 County Road Bourne, MA.** Ms. Chaves said that she has one horse now and hopes to bring on three more horses, build two new free-standing stalls, and expand the paddock. She brings her manure to the Bourne landfill once every two weeks and she contracts with Mosquito Squad for fly and mosquito control. Ms. Chaves told the Board she is an experienced horse owner and shared some of her history as an animal owner and animal rescue volunteer. Ms. Chaves was willing to work with neighbors to address any issues. Ms. Chaves currently has one horse, 10 chickens, and a dog on site. Mr. Andrews requested that Ms. Chaves increase her manure plan to weekly drop-offs at the landfill, Ms. Chaves agreed. There were no additional questions from the Board and no questions from abutters. **Mrs. Mastria made a motion to approve the installation of two new stalls and add three horses to the existing stable permit with an updated manure management plan of once weekly drop-offs to the landfill. The motion was seconded by Mr. Uitti. Roll call vote to approve: Mr. Uitti - Yes, Mrs. Mastria - Yes, Ms. Princiotta - Yes, Mr. Andrews - Yes. All in favor and the motion passed.**
6. **108 Salt Marsh Lane – Peter McEntee P.E. of Engineering Works on behalf of Owners Uri & Marilyn Riten Brink – Requesting Relief from State and Local Board of Health Title 5 regulations. Requesting to replace a failed septic system with a Tight Tank system designed in conformance with 310 CMR 15.260(2).** Mr. McEntee presented this as a failed septic system at the back of the house, very close to the salt marsh. This house is only used seasonally so the owners would like to install a tight tank. Ground water monitoring had been completed to determine maximum tidal flux, the buoyancy will be offset by the weight of the tank and this can be considered a straightforward install. Ms. Guarino was concerned that people may unintentionally park on top of the tight tank and requested either an H-20 loading tank or a way to cordon off the area. Ms. Guarino would also like to see a three bedroom deed restriction, an audio and visual alarm, and a disclosure of the tight tank operation and maintenance agreement. Mr. Andrews requested that the audio and visual alarm be installed at the front of the house so that it is visible from the street. The owner, Mr. Uri Riten Brink, agreed to all requests. There were no further questions from the Board. **Mrs. Mastria made a motion to approve the request with four conditions including an audio and visual alarm in front of house, a barrier to delineate the area, a three bedroom deed restriction, and required submission of an O&M contract. The fence barrier can be administratively approved prior to issuance of the COC. Mr. Uitti seconded the motion. Roll call vote to approve: Ms. Princiotta - Yes, Mrs. Mastria - Yes, Mr. Uitti - Yes, Mr. Andrews - Yes. The motion passed unanimously.**
7. **Cape View Way – Joseph Henderson P.E. of Horsley Witten Group on behalf of the Preservation of Affordable Housing/ Housing Assistance Corporation- Requesting relief from State and Local Board of Health Title 5 regulations. Variances requested include a 7.4 foot reduction in the required 10 foot setback from the septic tank. A 7 foot reduction in the required 10 foot setback from the septic tank to the property line. A 2.3 foot reduction from the required 10 foot setback from the SAS to the property line. Thirteen additional inches in cover on approximately 39% of Bed 1 and 16 additional inches of cover on approximately 41% percent of Bed 2.** Mr. Henderson presented to the Board that this is a proposed 51 unit affordable housing development with expected 9,900 gallons per day. They are proposing a 30,000 gallon septic tank and an I/A leaching system. Soil testing showed sandy soils with no redox or water table found; there is 40ft to the water table. The site is graded to maintain proper drainage to storm water systems and tie-in to abutting properties. All the plans meet the manufacturer's requirement and the septic design has been vetted and reviewed by the manufacture. The original property was a subdivision and the right of way needs to be maintained for access to abutting properties. The property line variances are to do with internal property lines. Mr. Henderson said all distances to abutters are within regulation. Mr. Henderson stated that the site is not in a nitrogen sensitive area or resource protection area. The project had been reviewed by Cape Cod commission and ZBA. Ms. Princiotta asked if the project would limit access to the right of way road. Mr. Andrews asked about the manufacturer's maximum cover and the answer was 72 inches. Miss Guarino noted that although this is a Presby Enviro-septic, it is not the 'advanced' technology. It is technically classified as alternative aggregate free soil absorption system, but it is not approved for treatment by MassDEP. Miss Guarino stated that she is disappointed that Mr. Henderson's client is not including advanced technology to treat nitrogen, seeing that this plan is just 100 gallons shy of requiring a water treatment facility. Miss Guarino asked Mr. Henderson why there is no nitrogen removal or

anything more protective to the environment included in the plan and if the applicant would entertain this suggestion? Ms. Princiotta suggested that project could reduce the number of units instead of installing nitrogen treatment. Mr. Andrews would prefer to see additional nitrogen treatment included in the plans. **Mr. Henderson asked for a continuance to speak with the client. Mrs. Mastria made a motion to continue. The motion was seconded by Mr. Uitti. Roll call vote to continue: Ms. Princiotta - yes, Mrs. Mastria - yes, Mr. Uitti - yes, Mr. Andrew - yes. The Motion passed unanimously.**

8. **189A Captains Row – Zac Basinski P.E. of Bracken Engineering on behalf of owner Antonio Ruscito- Requesting Relief from State and Local Board of Health Title 5 regulations. Variances requested include a 89 foot reduction in the required 150 foot setback from a S.A.S to a non-eroding coastal bank and a 2 foot reduction in the required 5 foot separation from the bottom of the S.A.S to estimated seasonal perched groundwater table.** Mr. Basinski presented this as an existing three bedroom house constructed in 1981 with a 1,000 gallon septic tank and leach pit. Internal renovations to the house triggered a septic upgrade with MicroFAST nitrogen reducing system and a three bedroom Presby field. There is a non-nitrogen dependent coastal bank. The groundwater was observed 17 ft below grade, which gives 12.2 ft below the proposed system. What is being asked for is a three foot separation from the estimated seasonal perched high groundwater table that was observed diagonally across the street. Mr. Basinski considered this a vast improvement over the existing system and believed it meets the local board of health regulation for improvement, with 37% reduction of nitrogen. The resource areas were confirmed by Bourne Conservation. A deed restriction and operation and maintenance contract for the system will be provided. Miss Guarino agreed that this is a vast improvement to the site. Mr. Andrews requested a floor plan. The Board had no other questions. **Mrs. Mastria made a motion to approve the request with three conditions including a three bedroom deed restriction, an alternative testing and maintenance schedule, and a floorplan of the dwelling. Ms. Princiotta seconded the motion. Roll call vote to approve: Ms. Princiotta - yes, Mrs. Mastria - yes, Mr. Uitti - yes, Mr. Andrews - yes. Motion passed.**
9. **9 Agawam Point Road—David Flaherty on behalf of owner Paul Busheff—Requesting relief from the Local 150' Setback Regulations for the installation of an upgraded I/A septic system. Asking for a 97 foot variance from the leaching facility to the coastal bank and a 70 foot variance from the leaching facility to the bordering vegetated wetland.** Mr. Flaherty presented this as an eight bedroom property in Gray Gables with two dwellings on the property. The owner did an ANR plan to separate the properties through the ZBA. The remaining issue was that the leaching field for #9 is now on #12's property. The owner wanted to bring the entire system back on to his property. Mr. Flaherty pointed out that although there are minor tweaks to distances to coastal areas, this plan is essentially the same plan that was proposed and approved before. The big difference was a robust denitrification system MicroFAST 1.75. Mr. Flaherty believed this to be the best way to solve the problem and mitigate potential issues with resource areas. The remaining leach field would be used for the system at #12. Ms. Guarino stated that overall this is upgrading a conventional pumped Title 5 system and moving it closer to coastal banks, but adding advanced treatment. This is beneficial to the site. Ms. Guarino noted that future applications to do with property #12 will be considered separately. **Mrs. Mastria made a motion to approve the requests with two conditions including an eight bedroom deed restriction and a scheduled alternative testing and maintenance plan that conforms to BOH requirements. Mr. Uitti seconded the motion. Roll call vote to approve: Mr. Uitti - yes, Ms. Princiotta - yes, Mrs. Mastria - yes, Mr. Andrews - yes. Motion passed.**
10. **Tobacco Violations – Discussion and possible vote on penalties for Tobacco Violations pursuant to 105 CMR 665.000:**
  - a. **Shell Station – 282 Main St – 2<sup>nd</sup> Violation for sale of blunt wraps and 1<sup>st</sup> violation within 36 months for sale of flavored tobacco product.** Mr. Rai was present for the hearing. He demonstrated to the Board that the Fronto Rock N Roll product that was the subject of the first violation clearly states "cigar" on the packaging and he held the packaging up to the camera. Mr. Rai said that the flavored tobacco product was delivered to the store without his knowledge and was put on his shelf by an employee by accident. Miss Guarino agreed that the Fronto Rock N Roll package clearly states "cigar." Miss Guarino requested that the Board write a letter to request specific guidance from Barnstable County as a means to provide both the Town and retailers with more education. Mr.

Andrews agreed with that request. Mr. Andrews stated that the Board of Health is bound by the state law to impose the \$1,000 fine for the sale of flavored tobacco and voiced his frustration with the fines. Mr. Andrews also asked to entertain a motion of no finding of guilt for the first half of the violation concerning the sale of blunt wraps. **Mrs. Mastria made a motion to not impose a fine for the sale of blunt wraps but to impose the \$1,000 fine for the sale of the flavored tobacco product to be paid before applying for a 2022 tobacco permit. Mr. Uitti seconded the motion. Roll call vote to approve. Ms. Princiotta - yes, Mr. Uitti - yes, Mrs. Mastria - yes, Mr. Andrews - yes. Motion passed for no fine to be issued for the sale of the Fronto Rock N Roll and for it to not be considered a violation but for the fine to be imposed for the flavored product.** Mrs. Mastria asked if the flavored tobacco fine can be paid in increments or if it must be paid in full. Mr. Andrews stated that per the regulation the fine can be paid in increments as long as it is fully paid by the time Mr. Rai applies for his 2022 tobacco permit. Mr. Rai thanked the Board and recognized that the regulation is very confusing for both the Board and the retailers. Mrs. Mastria stated that she is happy to have the Board send a letter for clarification on the tobacco products that can be sold in the Town. Mr. Andrews asked to entertain a motion for a letter to be sent to the County Tobacco Control Board asking for clarification and a list of products not permitted to be sold in MA and an explanation from the County that explains why the Rock N Roll Fronto Leaf Cigar is considered a blunt wrap and to provide more education. **Motion made by Mrs. Mastria and seconded by Mr. Utitti. Roll call vote: Mr. Uitti - yes, Mrs. Mastria - yes, Ms. Princiotta - yes, Mr. Andrews - yes. The motion passed.**

11. **Approve the Minutes— Mrs. Mastria made a motion to approve the minutes from the March 16, 2021 remote joint session with the Board of Selectmen. Mr. Uitti seconded the motion. Roll call vote to approve: Mr. Uitti - Yes, Mrs. Mastria - Yes, Mr. Andrews - Yes. Ms. Princiotta - abstained from the vote. Motion passed. Mrs. Mastria made a motion to approve the March 31, 2021 meeting minutes at the next Board of Health meeting. Mr. Uitti seconded the motion. Roll call vote to approve. Ms. Princiotta - Yes, Mrs. Mastria - Yes, Mr. Uitti - Yes, Mr. Andrews - Yes. Motion passed.**

12. **Set tentative date for next meeting and adjourn- Mr. Andrews requested that the next Board of Health meeting take place on May 12<sup>th</sup>, prior to the election week.** Mr. Andrews stated that he would like the document for the RFQ to be ready for approval by the Board on May 12th. Miss Guarino noted that the other item to be discussed is the remand hearing. Mr. Andrews said the Board needs to set a date for an executive session for discussion with Town Counsel. Mr. Andrews said he will discuss this with Town Counsel to determine the best time for executive session. He may schedule the executive session at 5pm and start the Board of Health meeting for 5:30pm, or the executive session may begin at 4:30pm.

**Mrs. Mastria made a motion to adjourn the meeting and Mr. Uitti seconded the motion. Roll call vote to adjourn: Mr. Uitti - yes, Mrs. Mastria - yes, Ms. Princiotta - yes, Mr. Andrews - yes. The motion passed and the meeting was adjourned at 6:52pm.**

Typed by Stephanie Fitch, Health Inspector  
Edited by Terri Guarino, Health Agent